

# COMMUNITY BANK 50% TAX CREDIT PROGRAM

## Redevelopment Target Area

### GUIDELINES AND PROCEDURES

**Legal Authorization:** Section 135.400 to 135.429

**Administrative Agency:** Missouri Department of Economic Development ("DED"), Division of Community Development, P.O. Box 118, Jefferson City, MO 65102. Telephone (573) 751-4572; Fax (573) 526-8999. Contact: Mike Heimericks.

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#### A. Definitions

1. **"Business":** A for-profit or non-profit commercial concern located in the Target Area engaged in a legal revenue generating commercial or trade activity, **not** including residential rental housing, finance related businesses, or an organization engaged in lobbying public officials or religious activities.
2. **"Community Bank":** Either a "Bank Community Development Corporation" or a "Community Development Financial Institution", that receives at least **10%** of its investment (or contributions, if established as a non-profit corporation) from commercial financial institutions regulated by the Federal Reserve Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Missouri Division of Finance. The remaining investment or contribution in a Community Bank may be from non-financial institution entities.
  - a. **"Bank Community Development Corporation" (CDC):** A for-profit or non-profit corporation established by one or more financial institutions with the intent to promote community welfare by making debt or equity investments in areas that are distressed or for businesses that typically cannot obtain financing under normal banking practices. Such investments must be of a predominantly civic, community, or public nature (not merely for private entrepreneurial purposes); not exceed 5% of a bank's capital and surplus; and the investment in the CDC is accounted for on the bank's books under "other assets". Banks may invest in multi-bank or multi-investor CDCs.
  - b. **"Community Development Financial Institution" (CDFI):** Defined in the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, P.L. 103-328, 108 Stat. 2338, 9/29/94, HR 3841; Section 103(5) as an entity that:

1. Primary mission is promoting community development;

2. Serves an investment area (economic distress, significant unmet needs for loans or equity investments, or is in an empowerment zone or enterprise community), or targeted population (low-income persons, or otherwise lack adequate access to loans or equity investments);
  3. Provides development services in conjunction with equity investments or loans, directly through a subsidiary or affiliate;
  4. Maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and,
  5. Is not an agency or instrumentality of the U.S., or of any state or political subdivision of a state.
3. **"Funder"**: An individual, partnership, financial institution, or trust who invests in a for-profit Community Bank **or** makes a contribution to a non-profit Community Bank with the anticipation of tax credits under this program. In the case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall receive tax credits proportionate to their ownership. An employee of a Community Bank or a Principal Owner may not receive tax credits for any investment or contribution to the Community Bank.
  4. **"Project"**: A loan or an equity investment made by a Community Bank in an eligible Business, or an equity investment by a Community Bank in an eligible real estate investment made by the Community Bank. Such investments must either reduce conditions of blight, unemployment, or widespread reliance on public assistance, and create/retain full-time year-around jobs. All Projects that were derived from funds subject to the tax credits must be located in the Target Area. Investments of the Community Bank that are not related to the tax credits are not restricted to the Target Area.
  5. **"New Jobs"**: The increase of full-time, year-around employees of a Business that received an investment from a Community Bank. Full-time is defined as an employee who works at least 1800 hours at the facility within a contiguous 12-month period. Jobs relocated within the State of Missouri, or jobs that were reduced at another facility of a Business within the state cannot be included.
  6. **"Principal Owner"**: Anyone who is an employee of the Business, or any person, corporation, trust, or partnership that owns more than 25% of the stock of the Business (including spouse, parents, children or a corporation, partnership or trust owned by such person).
  7. **"Real Estate Development"**: The Community Bank may acquire and improve blighted real property with the intent to sell the property for redevelopment purposes. A Community Bank must re-invest sale proceeds from such Real Estate Investment in an eligible Business or other Real Estate Development, as described herein,

except that a for-profit Community Bank may distribute such sale proceeds to investors after 5 years from the date of the original investment.

"Blighted" is defined in section 99.805 (1) RSMo, and preference will be given to property within an area designated under Tax Increment Financing (section 99.800, RSMo); Enterprise Zone (section 135.200, RSMo); Urban Redevelopment Corporations Law (Chapter 353, RSMo); Rebuilding Communities (section 135.530, RSMo) or Brownfield Redevelopment (section 447.700, RSMo). The seller of property to a Community Bank/CDC may not receive tax credits for any investment or contribution in such Community Bank/CDC. Environmental cleanup costs may also be eligible.

8. **"Target Area":** An area designated by a Community Bank/CDC (with the consent of the city council, or county commission if not within a city) that meets the following criteria:

All applications must provide the "Census Block Group(s)" for the Target Area. If more than one Block Group is listed they must be contiguous. An area of similar and like interests for developing an infrastructure that supports self-sufficiency while reducing the need for welfare except as a transitional benefit. A community (or Target Area) can include a group of blocks or a self-defined neighborhood in an area." The size of the Target Area should be limited to produce a measurable impact.

9. **"Revitalization Plan":** The Community Bank/CDC (and/or city) must submit a revitalization plan for the Target Area to the Missouri Division of Community Development for approval prior to DED's approval of tax credits. Any federally designated empowerment zone or enterprise community automatically meets the requirements of the plan. The plan should be developed jointly by the Community Bank/CDC and city to include the participation of all appropriate service providers within the Target Area.

The plan should include all, or parts, of the following components:

- a. Community cooperatives that expand the capacity to meet basic needs such as child care;
- b. Transportation strategies, that make better use of existing transportation resources through multisystem use and coordination;
- c. Health care strategies that maximize available resources for the health and safety of the individuals residing in the community;
- d. Community support and volunteer involvement, that maximize human resources and provide residents the opportunity to reinvest in their

neighborhoods, volunteer service banks, mentoring and adolescent-specific programs may be included;

e. Service integration, that improves efficacy and facilitates a needs-based approach to service delivery. Service integration should include common intake and referral strategies;

f. Economic revitalization, that creates an environment of opportunity and growth. Neighborhood assistance programs and other economic development tools, such as investment incentives should be identified;

g. Private sector involvement and investment, that ensures the viability of the community is self-sustaining and involves the total community. Community representation and private sector commitments should be specified.

h. Prevention, that gives families in need of short-term assistance the resources necessary to avoid long-term dependency.

The plan must be submitted to the CDC Tax Credit Program, Missouri Division of Community Development, P.O. Box 118, Jefferson City, MO 65102. The plan must be approved **prior** to DED's approval of tax credits. For more information on the requirements of the plan, contact Mike Heimericks at 573-751-4572.

## **B. Purpose of the Program**

1. **Purpose:** Induce investment into a Community Bank/CDC, that would then invest in new or growing small businesses, real estate development or single-family housing in-fill/rehabilitation projects resulting in an expansion of the tax base, reduction of blight, reduction of reliance of public assistance, and the creation/retention of jobs. The application "Revitalization Plan" should have measurable outcomes in one, or more, of these areas.
2. **Method:** A Funder may obtain state tax credits based on 50% of investments or contributions into a Community Bank/CDC. The Community Bank/CDC would then make equity investments or loans to a Business, or investment in a real estate development within the Target Area. Each Project is subject to audit for compliance with section 135.400-135.429, RSMo. In the event any part of these guidelines conflicts with the statutes or rules published in the Code of State Regulations, the statutes (first) and Code (second) will prevail over guidelines.

## **C. Eligibility Qualifications - Fundors**

1. **Ineligible Funders:** For a period of 3 years from the time tax credits were provided to any Funder of the Community Bank/CDC, a Funder cannot be the recipient of, or benefit from, the financial services of the Community Bank/CDC if he/she is a Principal Owner in an eligible investment project as defined in D4. This restriction also would apply to the spouse, children or parents of a Principal Owner, or a corporation, trust, partnership, or other entity that is controlled directly or indirectly of persons related to a Principal Owner. ("Controlled directly or indirectly" is defined as 50% or more of equity interest in such entity is owned, directly or indirectly, by any related person, as described herein.)
2. **Eligible Investments/Contributions by Funders:** Tax Credits will be provided to Funders by DED based on 50% of the amount of stock purchased in or a loan made to a for-profit Community Bank/CDC, or contributions made to a non-profit Community Bank/CDC. Tax credits will not be approved for contributions or investments other than cash. Any contribution or investment made by a funder prior to DED's approval of the Community Bank/CDC application will not be eligible for tax credits.

<b>D. Limitations of the Community Bank's Investment</b>
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1. **Prior Investments:** The investment or contribution made by the Funder into the Community Bank/CDC cannot have been made (transaction is closed and the Fundors' funds distributed to the Community Bank/CDC) prior to DED's approval of the Community Bank's/CDC request for tax credits. Potential Funder(s) of the Community Bank/CDC need not be named in the application. The investment or contribution made by the Funder that is subject to tax credits must be in the form of cash. The investment or contribution by the Funder must be completed prior to the issuance of tax credits by DED.
2. **5 Year Minimum Investment:** The principal amount of an investor's approved investment in a for-profit Community Bank/CDC (for the purposes of obtaining tax credits) must remain in the Community Bank/CDC for at least five (5) years from the date the investment was made. The original investor (who was granted tax credits) may sell his/her stock in the Community Bank/CDC to another party within the five-year period, but the investment in the Community Bank/CDC must remain.

In the event any portion of the investment is withdrawn within the five year period, the amount withdrawn will be subject to repayment by the Community Bank/CDC based on 50% of the amount repaid, plus any related legal or collection costs incurred by DED. In no event may a contributor to a non-profit Community Bank/CDC receive payments of principal, interest, dividends, or other consideration, state tax credits and federal tax deduction excepted.

3. **Interest/Dividends:** Interest or dividends may be paid to investors of a for-profit Community Bank during the five year holding period, but limited to the current prime rate plus 2%. There may be no payment of any kind from a non-profit Community Bank/CDC to a contributor, except for goods and services sold to the Community Bank/CDC. Such sale could not be at more than market price.
4. **Eligible Investments by the Community Bank/CDC:** The use of contributed or invested funds provided to a Community Bank/CDC that were derived from the tax credits is limited to loans or equity investments to a Business for the acquisition of land or an existing building; new capital improvements (real estate, machinery and equipment, furniture and fixtures); and certain working capital expenses, including new inventory, payroll, advertising/marketing, and professional services. The Community Bank/CDC may also invest in a Real Estate Development (as defined in section A) within the Target Area with the intent of assembling property for eligible development purposes (except as noted below).
5. **Ineligible Investments by the Community Bank:** Ineligible uses of the Funder's investment or contribution by the Community Bank/CDC would include the purchase of stock, warrants, or other payments related to a buyout of stock to an existing owner of the Business; payment for capital improvements to be located out of the Target Area; payment of working capital or research and development for operations outside the Target Area; donations or contributions; or, political (including expenses related to lobbying any public official) or religious activities. The buyout of an existing Business is ineligible unless it can be demonstrated to DED that a business would cease operations absent such investment.

An ineligible Real Estate Development would include any property acquired with the intent of use for rental housing, religious, or political purposes. Any property purchased by the Community Bank/CDC from an investor or contributor who received tax credits is ineligible, unless the property was acquired at a discounted value that represented the benefit the investor or contributor received from the tax credits (and federal deduction, for a non-profit Community Bank/CDC).

6. **Maximum Investment Per Project:** No more than \$100,000 can be invested or loaned by the Community Bank for any one Business (including any affiliate or subsidiary of the Business) or Real Estate Development.
7. **Re-Use of Invested Revenue:** For a period of at least 5 years from the date tax credits are distributed to Funders, the Community Bank/CDC must use any revenue realized from loan payments, dividends, interest income, property sale, or other revenue resulting from investments made relative to the original investment or contribution related to the tax credits for eligible Projects within the Target Area.
8. **Jobs created/retained:** At least 1 Job must be created, or retained as a result of the investment of the Community Bank/CDC in a business. All new Jobs counted

must be created within 3 years of the date tax credits were provided to a Funder of the Community Bank. Only Jobs created/retained by a Business that received an investment by the Community Bank, or, Jobs created/retained due to a Real Estate Development funded by investments due to the tax credits may be counted. Jobs relocated within the State of Missouri, or jobs reduced at another facility of a Business in the state cannot be counted.

The Community Bank/CDC must provide DED with documentation of the Jobs created/retained at the end of the 3 year anniversary period. Such documentation must be identify the name of the Business, sector (service, retail, etc.), dollar amount approved, the number of full-time, year-around jobs prior to the investment by the Community Bank/CDC, and a listing of the names of persons (and date of hire) considered "New Jobs" of the Business. Each Business must sign the report, attesting to its accuracy. DED will randomly audit Businesses to confirm the accuracy of the reports. A Business that intentionally provides inaccurate information may be subject to civil and/or criminal penalties.

Many businesses submit a report on New Jobs to DED for either the "Business Facility Tax Credit" or "Enterprise Zone Credit" programs. Such report may be submitted to the Community Bank/CDC if it corresponds to the same time period as the 3rd year anniversary.

9. **Penalties for Non-Compliance:** In the event a investment/expense in an ineligible activity occurred, as defined in D5 and D10 of this section, the Community Bank/CDC must reimburse DED for the proportionate amount of tax credits allocated to the infraction.

**Example A:** DED provided Fundors with \$100,000 in tax credits allowing the Community Bank/CDC to establish a \$200,000 revolving business loan fund. If the Community Bank/CDC invested \$25,000 in a business that is geographically located out of the approved Target Area the loan would be in non-compliance with the agreed upon objectives as outlined in their application. As a result the Community Bank/CDC would be penalized based upon the amount of tax credits utilized to secure the loan. In this case the Community Bank/CDC would be penalized based upon  $50\% \times \$25,000 = \$12,500$ .

**Example B:** DED provided Fundors with \$100,000 in tax credits allowing the Community Bank/CDC to establish a \$200,000 revolving fund to assist in funding an in-fill single family housing project within a defined Targeted Area. In the process of approving projects a loan in the amount of \$50,000 was made for the purpose of acquiring and rehabilitating a multi-family building. In this case, the use of the tax credits prohibits the funding of multi-family housing projects. Therefore, the Community Bank/CDC would be penalized for the amount of tax credits utilized to secure funding for the loan ( $50\% \times \$50,000 = \$25,000$ ).

The payment of penalties by the Community Bank/CDC to DED will be in the form of cash. If the Community Bank/CDC has insufficient cash available, DED may (at our option) negotiate an acceptable payment schedule. The Community Bank/CDC will not be allowed to submit new funding applications to the program until the penalized amount is repaid in full.

10. **Non-Investment Costs:** No more than 20% of the funds received by a Community Bank/CDC from investors or contributors who received tax credits may be for non-investment related costs (such as administration, professional services, etc.), unless specifically approved by DED in writing. In the event the 20% is exceeded, the Community Bank/CDC must repay DED based on 50% of the amount that exceeds the 20% limit.

<b>E. Approval Process</b>
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1. **Application Submission:** Applications may be submitted by a Community Bank to DED at the address above on a continuous basis. Only completed applications will be accepted. (See listing of items to be included in Section F.) There are no pre-set forms for the application, except as required in Exhibits A, B, and C.
2. **Approval:** DED will approve an application based on:
  - a. Compliance with the eligibility criteria stated herein;
  - b. Availability of tax credits. The statute provides \$500,000 annually in tax credits. The tax credits will be allocated (up to \$100,000 per application) on a first-come basis to approved Community Banks/CDCs. Once the \$500,000 in credits are distributed, there is no obligation for DED to provide additional credits to Funders of approved Community Banks/CDCs. However, an approved Community Bank/CDC can submit a new application in future years for additional funding. The approval of an additional application will be based upon the availability of credits and the documented outcomes achieved by the applicant as a result of their initial funding request.
  - c. Ability of the Community Bank to successfully manage the funds.
  - d. Support of the local government for the Community Bank's proposed projects (Exhibit C).
3. **Maximum Tax Credits:**
  - a. Maximum Tax Credits per Community Bank: **\$100,000**. A Community Bank may be provided an additional \$100,000 if it has invested the entire original



investment 2 years after the date tax credits were first provided, and there are no outstanding penalties for insufficient job creation or other violations of the program. This limit would include any tax credits allocated from the previously available 30% and 40% Community Bank/CDC Tax Credit program.

- b. **Maximum Tax Credits per Metropolitan Statistical Area (MSA):** The allocation of credits within an MSA will be on a first come, first served basis until the annual \$500,000 state-wide limit is exhausted. However, priority will be given to identify and include fundable applications throughout the state.

<b>F. Tax Credits</b>
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1. **Amount:** Tax Credit Certificates will be issued by the Missouri Department of Economic Development to the Funder based on 50% of the amount of the investment or contribution to an Community Bank/CDC. The total amount of tax credits allowed will be based upon the allocation as outlined in the application approval contract.
2. **Taxes:** The credits are used to offset the liability of taxes due, as specified in Chapters 143 (personal and corporate income tax, except for the withholding of tax in Section 143.191); Chapter 147 (corporation franchise tax); Chapter 148 (Financial Institution Tax); and Chapter 153 (taxation of bridge, express, and public utility companies), RSMo.
3. **Transferability:** The credits may be used by the Funder, or may be sold or transferred to another party.
4. **Carry-Forward:** The credits may be used by the Funder to offset eligible tax liabilities that become due in the tax year in which the investments were made, or in any of the ten tax years thereafter.
5. **Penalties:** In the event any provision of the authorizing statute of this program or these guidelines were found to be violated, DED may revoke, in full or part, any unused credits and/or require the Funder and/or Community Bank (whichever party was responsible for the violation) to repay the amount of tax credits provided to Funders, and any legal or collection costs associated with such repayment.